

EXHIBIT A

1 THE HONORABLE MARSHA J. PECHMAN
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 IN RE: WASHINGTON MUTUAL
11 MORTGAGE BACKED SECURITIES
12 LITIGATION,

This Document Relates to: ALL CASES

Master Case No.: C09-0037 (MJP)

**PLAINTIFFS' MOTION TO SEAL
EXHIBIT 1 TO JASNOCH
DECLARATION IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO
PRECLUDE THE PROFFERED EXPERT
TESTIMONY OF SCOTT D. HAKALA**

NOTE ON MOTION CALENDAR:
August 10, 2012

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27 DECLARATION IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION TO
28 PRECLUDE THE PROFFERED EXPERT
TESTIMONY OF SCOTT D. HAKALA
Case No. C09-037 MJP

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1 Lead Plaintiffs Doral Bank Puerto Rico, Policemen's Annuity and Benefit Fund of the
2 City of Chicago, and Boilermakers National Annuity Trust (collectively, "Plaintiffs")
3 respectfully submit this Motion to Seal contemporaneously with the Opposition to Defendants'
4 Motion to Exclude the Proffered Expert Testimony of Scott D. Hakala.

5 **PRELIMINARY STATEMENT**

6 Plaintiffs respectfully request that the Court issue an Order sealing, in whole or in part,
7 certain Exhibits to the Declaration of John T. Jasnoch (the "Jasnoch Declaration"), filed in in
8 support of Plaintiffs' Opposition to Defendants' Motion to Preclude the Proffered Expert
9 Testimony of Scott D. Hakala, pursuant to Local Civil Rule 5(g), Paragraph 16 of the Stipulated
10 Protective Order and Stipulated Order Regarding the "Clawback" of Documents (the "Protective
11 Order") (ECF No. 213) and applicable law. Plaintiffs seek to seal portions of Exhibit 1 to the
12 Jasnoch Declaration, which contains nonpublic trading data and other information regarding
13 customers of third-party financial institutions, which has been designated as "Confidential" by
14 those third parties. This data is contained and discussed in Exhibit 1, which is the June 8, 2012
15 deposition of Scott D. Hakala. Plaintiffs have strictly limited the motion to seal to the
16 information that may be required to be protected from disclosure under applicable law.

17 **ARGUMENT**

18 **I. Legal Standard**

19 Under Paragraph 16 of the Protective Order and Local Civil Rule 5(g)(3), a party must
20 obtain the Court's authority to file documents under seal, which "will be kept under seal only if
21 the party presents 'compelling reasons' for preserving them under seal." Order on Motion to
22 Seal [ECF No. 266] at 1-2 (citation omitted). Courts in the Ninth Circuit typically consider the
23 following factors in determining whether such "compelling reasons" exist: "(1) the public's
24 interest in understanding the judicial process; (2) whether disclosure of the material at issue
25 could result in improper use (such as to incite scandal, libel a party, or enable infringement of a

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1 party's trade secrets); (3) the interests of the parties and the balance of equities"; and (4) "the
2 duty of the court to balance all of these competing interests and to inform the public of the basis
3 for its decision." *See California ex rel. Lockyer v. Safeway, Inc.*, 355 F. Supp. 2d 1111, 1115
4 (C.D. Cal. 2005) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 602-04 (1978)).

5 **II. Documents to be Sealed Are Claimed to Be Subject to Confidentiality Protections of
the Protective Order**

6 Exhibit 1 to the Jasnoch Declaration is the transcript of the June 8, 2012 deposition of
7 Scott D. Hakala. This transcript contains several references to trading data which the third
8 parties who produced the materials claim to be subject to confidentiality protections of the
9 Protective Order. While Plaintiffs do not believe any of this material is, in fact, sensitive or
10 confidential, this motion is being filed to comply with the terms of the Protective Order.

11 **CONCLUSION**

12 For the foregoing reasons, and on the basis of the authorities cited, Plaintiffs file this
13 Motion to Seal Exhibit 1 to the Jasnoch Declaration in Support of Plaintiffs' Opposition to
14 Defendants' Motion to Preclude the Proffered Expert Testimony of Scott D. Hakala.
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16 Dated: August 1, 2012

Respectfully submitted,
SCOTT+SCOTT LLP

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2 CERTIFICATE OF SERVICE
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I hereby certify that on August 1, 2012, I caused the foregoing to be electronically filed
with the Clerk of the Court using the CM/ECF system which will send notification of such filing
to the email addresses denoted on the Electronic Mail Notice List, and I hereby certify that I
caused the foregoing document or paper to be mailed via the United States Postal Service to the
non-CM/ECF participants indicated on the Manual Notice List.
8

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I certify under penalty of perjury under the laws of the United States of America that the
foregoing is true and correct. Executed on August 1, 2012.
10

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